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EXAMINER

ART UNIT PAPER NUMBER

1806

DATE MAILED: 11/21/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

For restriction purposes
☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 0 month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-50 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-50 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-3, drawn to a method for treating or preventing a cardiovascular disorder, classified in class 424, subclass 130.1.
 - II. Claims 4-5, drawn to a method for treating or preventing a cerebrovascular disorder, classified in class 424, subclass 130.1.
 - III. Claims 6-28, drawn to a method of treating or preventing a thrombotic disorder, classified in class 424, subclass 130.1.
 - IV. Claims 29-50, drawn to a method of decreasing plasma fibrinogen in an individual, classified in class 424, subclass 130.1.
2. The inventions are distinct, each from the other because of the following reasons: The methods of Groups I- IV differ in the method objectives, method steps and parameters and in the reagents used.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent

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subject matter and because the searches required for the groups are not co-extensive, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

5. With the election of Group III the following election of species is required:

Species A: tumor factor antagonist is an antibody (claims 8-15)

Species B: tumor factor antagonist is a tumor necrosis factor receptor (claims 16-20)

Species C: tumor factor antagonist is a receptor-antibody fusion protein (claims 21-22)

Species D: tumor factor antagonist prevents or inhibits tumor necrosis factor receptor signaling (claim 28)

Species E: tumor factor antagonist prevents or inhibits tumor necrosis factor synthesis or release (claims 23-27)

With the election of Species E, a further election of species is required:

Species aa: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a phosphodiesterase inhibitor (claims 24 and-25)

Species bb: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is thalidomide or tenidap (claim 26)

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Species cc: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a A2b adenosine receptor agonist or a A2b adenosine receptor enhancer (claim 27)

Claims 23 will be examined to the extent that it reads on the elected species; species aa-cc.

6. With the election of Group IV the following election of species is required:

Species A: tumor factor antagonist is an antibody (claims 31-37)

Species B: tumor factor antagonist is a tumor necrosis factor receptor (claims 38-42)

Species C: tumor factor antagonist is a receptor-antibody fusion protein (claims 43-44)

Species D: tumor factor antagonist prevents or inhibits tumor necrosis factor receptor signaling (claim 50)

Species E: tumor factor antagonist prevents or inhibits tumor necrosis factor synthesis or release (claims 45-49)

With the election of Species E, a further election of species is required:

Species aa: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a phosphodiesterase inhibitor (claims 46-47)

Species bb: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is thalidomide or tenidap (claim 48)

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Species cc: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a A2b adenosine receptor agonist or a A2b adenosine receptor enhancer (claim 49)

Claims 45 will be examined to the extent that it reads on the elected species; species aa-cc.

7. Species A-E and aa-cc are structurally and functionally different reagents which are made by different methods. Their use in the methods of Groups III or IV would require the consideration of different method steps and parameters. Thus, the examination of all species would require different searches in the U.S. Patent Shoes and the scientific literature and would require the consideration of different patentability issues.

8. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

9. A telephone call was made to Helen Lee on November 18, 1996 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy A. Johnson, Ph.D. whose telephone number is (703) 305-5860. The examiner can normally be reached on Monday-Friday from 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lila Feisee, can be reached on (703) 308-3271. The fax number for the group is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.



Nancy A. Johnson, Ph.D.
November 19, 1996



LILA FEISEE
SUPERVISORY PATENT EXAMINER
GROUP 1800